

**STATE OF CALIFORNIA  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
TEXT OF PROPOSED CHANGES TO REGULATIONS**

In accordance with the provisions of Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code, the Commissioner of Financial Institutions proposes to add, amend, and repeal regulations in Article 7 (commencing with Section 5.6000), Subchapter 5, Chapter 1 of Title 10 of the California Code of Regulations, and Subchapter 30 (commencing with Section 30.1) of Chapter 1 of Title 10 of the California Code of Regulations, as follows:

**1. Section 5.6182 is added, to read:**

**§5.6182. Expansion of Field of Membership.**

Application for an existing credit union to expand its field of membership (Financial Code Sections 14155 and 15451):

(1) Initial review period: 60 days.

(2) Decision period: 90 days.

(3) Median, maximum, and minimum periods during fiscal years 1999/00 and 2000/01: 90 days, 360 days, 14 days.

Note: Authority cited: Section 15376, Government Code. Reference: Section 15376, Government Code.

**2. Section 5.6183 is added, to read:**

**§5.6183. Eligibility to Add Select Groups.**

Applications for eligibility to add select groups to a credit union's field of membership (Financial Code Sections 14155 and 15451; Code of Regulations, Title 10, Section 30.72):

(1) Initial review period: 60 days.

(2) Decision period: 90 days.

Note: Authority cited: Section 15376, Government Code. Reference: Section 15376, Government Code.

**3. Section 30.30 is added, to read:**

**§30.30. Economic Feasibility – Existing Credit Union.**

Whenever the Commissioner, this Subchapter or any law administered by the Commissioner requires that the Commissioner determine the economic feasibility of any proposal of an existing credit union, the Commissioner may consider:

(a) The adequacy of the equity capital of the credit union.

(b) The quality of assets of the credit union.

(c) The level of earnings of the credit union.

(d) The level of liquidity of the credit union.

- (e) The quality of management of the credit union.
- (f) The business plan of the credit union.
- (g) The marketing plan of the credit union.
- (h) The business practices of the credit union.
- (i) Such other factors that bear upon a determination of the economic feasibility of the proposal.

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14155 and 14201, Financial Code.

#### **4. Section 30.31 is added, to read:**

##### **§30.31. Equity Capital Adequacy.**

Whenever the Commissioner, this Subchapter or any law administered by the Commissioner requires that the Commissioner determine the adequacy of the equity capital of a credit union, the Commissioner may consider:

- (a) The nature and volume of the business of the credit union.
- (b) The amount, nature, quality, and liquidity of the assets of the credit union.
- (c) The amount and nature of the liabilities (including, but not limited to, any notes or debentures and any contingent liabilities) of the credit union.
- (d) The history of, and prospects for, the credit union to earn and retain income.
- (e) The quality of the operations of the credit union.
- (f) The quality of the management of the credit union.
- (g) Such other factors that bear upon a determination that the equity capital of a credit union is adequate.

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14201 and 14211, Financial Code.

#### **5. Section 30.40 is added, to read:**

##### **§30.40. Certification of Corporate Resolution.**

Whenever the Commissioner or this Subchapter requires that a copy of a resolution of the board or of a committee of the board of a credit union filed with the Commissioner be certified, the certification shall:

- (a) State the title of the office, which the person making the certification holds with the credit union.
- (b) State that the copy is a true copy of the resolution.
- (c) (1) In a case where the resolution was adopted by the board, so state that such adoption occurred and specify the date of adoption.  
(2) In a case where the resolution was adopted by a committee of the board, so state that such adoption occurred, specify the date of adoption, state the title of the committee, and state that the committee is authorized to exercise the powers of the board with respect to the subject matter of the resolution.
- (d) State that the resolution has not been modified or rescinded and is in full force and effect.
- (e) Specify the date of the certification.

Note: Authority cited: Section 14201, Financial Code. Reference: Section 14201, Financial Code.

**6. Section 30.41 is added, to read:**

**§30.41. Certification by Secretary or Assistant Secretary.**

(a) Whenever the Commissioner or this Subchapter requires that a document filed with the Commissioner be certified by the secretary of a corporation and does not provide that such document may, in the alternative, be certified by an assistant secretary of such corporation, the certification shall be made by the secretary of the corporation. However, if the corporation has no secretary or if the secretary of the corporation is unavailable, the certification may be made by an assistant secretary of the corporation who is authorized to perform the functions of the secretary, in which case the certification shall (1) state that the corporation has no secretary or that the secretary is unavailable, and (2) that the assistant secretary is authorized to perform the functions of the secretary. Also, if the corporation has no secretary or assistant secretary, the certification may be made by the officer of the corporation who performs for the corporation the functions usually performed by the secretary of a corporation, in which case the certification shall state that the corporation has no secretary and that the officer making the certification performs for the corporation the functions usually performed by the secretary of a corporation.

(b) Whenever the Commissioner or this Subchapter requires that a document filed with the Commissioner be certified by the secretary or by an assistant secretary of a corporation, if such corporation has no secretary or assistant secretary, the certification may be made by an officer of the corporation who performs for the corporation the functions usually performed by the secretary or by an assistant secretary of a corporation, in which case the certification shall state that the corporation has no secretary or assistant secretary and that the officer making the certification performs for the corporation the functions usually performed by the secretary or by an assistant secretary of a corporation.

Note: Authority cited: Section 14201, Financial Code. Reference: Section 14201, Financial Code.

**7. Section 30.50 is added, to read:**

**§30.50. Field of Membership: Family of Member.**

A credit union's field of membership may include persons within the immediate family of a member. The classes of persons who are deemed to be within the immediate family of a member and eligible for membership shall be determined by the board of directors.

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14155 and 15451, Financial Code.

**8. Section 30.51 is added, to read:**

**§30.51. Field of Membership: Common Bond.**

The field of membership of a credit union shall consist of groups of persons with a common bond beyond obtaining financial services from the credit union. There are three basic forms of groups eligible for membership in a credit union: groups based upon a common bond of occupation; groups based upon a common bond of association; and, groups within a well-defined neighborhood, community, or rural district. A credit union may serve multiple groups from one or more of the three types of groups discussed above.

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14155 and 15451, Financial Code.

**9. Section 30.60 is added, to read:**

**§30.60. Existing Credit Union: Application for Expansion of Field of Membership.**

(a) In this Section, the term "community" means a well-defined neighborhood, community or rural district.

(b) Except as authorized by Section 30.73, a credit union may not expand its field of membership without the prior approval of the Commissioner.

(c) A credit union may not expand its field of membership except through an amendment to its bylaws.

(d) An application for an expansion of the field of membership of an existing credit union shall include the following information:

(1) If the applicant proposes to serve an occupational group or association, the application shall include the name and description of the proposed group or association. If the proposed field of membership includes more than one group or association, the application shall contain the name and description of each group or association. Other than groups of employees of a common employer, the application shall include the bylaws of each group or association, if the group or association has adopted bylaws.

(2) The bylaw amendment adding the proposed group or association approved by the board of directors of the credit union in accordance with Section 30.105.

(3) A complete list of the organizations, associations, and communities in the credit union's current field of membership.

(4) If the applicant proposes to serve one or more communities, the application shall include information sufficient to demonstrate a common bond with regard to each community.

(5) The number of potential members in each group or community to be included in the field of membership.

(6) The geographic location of each group or community to be included in the field of membership.

(7) If the proposed field of membership is a group the membership of which is equal to or greater than 20 percent of the current membership of the credit union or the proposed field of membership is a community, a copy of the business plan, and a copy of the marketing plan which shall include the methods by which the credit union intends to serve its expanded field of membership.

(8) Such other information that bears upon a finding that the proposed field of membership is not contrary to the principles of organizing credit unions, including principles of organizing credit unions based upon common bond of occupation, association, or groups within a well-defined neighborhood, community or rural district.  
Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14155 and 15451, Financial Code.

**10. Section 30.61 is added, to read:**

**§30.61. Field of Membership: Approval of Expansion of Field of Membership Application.**

(a) As an administrative standard, the Commissioner shall consider all of the following factors in processing an application to expand the field of membership of a credit union, and the Commissioner may deny the application for any of the following reasons:

(1) The field of membership of the applicant is contrary to the principles of organizing credit unions, including principles of organizing credit unions based on common bond of occupation, association, or groups within a well-defined neighborhood, community or rural district.

(2) A false statement of material fact has been made with regard to the application.

(3) The applicant's showing as to the economic feasibility of serving the expanded field of membership of the existing credit union is inadequate.

(b) If, after notice and an opportunity to be heard, the Commissioner makes a negative finding on any of the factors in Subdivision (a), the Commissioner may deny the application.

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14155 and 15451, Financial Code.

**11. Section 30.70 is added, to read:**

**§30.70. Field of Membership: Authorization to Add Select Groups.**

Sections 30.71 through 30.73 contain regulations relating to the eligibility of an existing credit union to add a select group to its field of membership without obtaining the prior approval of the Commissioner.

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14155 and 15451, Financial Code.

**12. Section 30.71 is added, to read:**

**§30.71. Field of Membership: Definitions.**

In Sections 30.72 and 30.73:

(a) "Eligible" when used with respect to a California credit union, means that the Commissioner has granted eligibility to add select groups to the credit union, and that the eligibility remains in full force and effect.

(b) "Acceptable Rating" when used with respect to a California credit union, means that the composite rating of the credit union in the most recent report of examination issued by the Department or the National Credit Union Administration was "1" or "2" under The CAMEL Rating System; provided that the credit union has not been notified by the Commissioner that it is ineligible.

(c) "Select Group" means either of the following:

(1) An association formed by a group of individuals based upon a common bond of occupation. At the time the application is made, the total number of members of that association may not exceed 1,000.

(2) Employees of a common employer. At the time the application is made, the total number of employees of the common employer may not exceed 1,000.

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14155 and 15451, Financial Code.

### **13. Section 30.72 is added, to read:**

#### **§30.72. Field of Membership: Application for Eligibility to Add Select Groups.**

(a) An application by a California credit union for eligibility to add select groups shall contain the following information:

(1) A statement that the credit union has an acceptable rating. The statement shall include the name of regulator or insurer which gave the acceptable rating, and the date the acceptable rating was given.

(2) A statement that there has been no material change in the condition of the credit union since it received the acceptable rating.

(3) Confirmation that the board of directors of the credit union has adopted a policy setting forth guidelines for adding select groups to its field of membership which incorporates, among other necessary items, the appropriate requirements set forth in Section 30.73. A copy of the policy shall be included as an exhibit to the application.

(b) (1) An application by a California credit union for eligibility shall be deemed to be approved on the 60<sup>th</sup> calendar day after the complete application is filed with the Commissioner, unless the Commissioner (A) earlier decides the application, (B) requests the applicant to provide additional information, or (C) extends the period for deciding the application. In no event shall the Commissioner extend the period for deciding the application beyond the 90<sup>th</sup> day after the complete application is filed with the Commissioner.

(2) For purposes of Paragraph (1) of this Subdivision (b), an application shall be deemed to be filed with the Commissioner on the date when the application, substantially in compliance with the requirements of Subdivision (a) of this Section, is received by the Commissioner.

(3) For purposes of Paragraphs (1) and (2) of this Subdivision (b), an application shall be considered complete when the Commissioner has received all of the supplemental information he or she requests from an applicant regarding the application. The Commissioner shall notify the applicant in writing of the date on which the Commissioner determined that the application was deemed complete.

(c) As an administrative standard, the Commissioner will approve an application by a California credit union for eligibility if the Commissioner finds both of the following:

(1) That the credit union has an acceptable rating and that there has been no material change in the credit union since the acceptable rating was issued.

(2) That the credit union has adopted the necessary policy to implement the addition of select groups to the field of membership of the credit union.

(d) (1) The Commissioner may, at his or her discretion, revoke the eligibility of a credit union under this Section and Section 30.73 if he or she finds any of the following conditions:

(A) Subsequent to the credit union being granted eligibility, the credit union receives a less than acceptable rating as a result of an examination of the credit union.

(B) Subsequent to the credit union being granted eligibility, there is a material change in the condition of the credit union.

(C) The credit union fails to adhere to the policy adopted in accordance with this Section.

(2) The eligibility of a credit union shall automatically be revoked if a credit union is subject to any enforcement action undertaken by any regulator or insurer of deposits of the credit union.

(3) There shall be no right to a hearing with regard to a determination to revoke a credit union's eligibility pursuant to Subdivision (d)(1) of this Section.

(e) In the event the eligibility of a credit union is revoked pursuant to Subdivision (d) of this Section, the credit union is required to file an application for eligibility under this Section if the credit union desires to regain its status as an eligible credit union.

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14155 and 15451, Financial Code.

#### **14. Section 30.73 is added, to read:**

##### **§30.73. Field of Membership: Procedure for Eligible Credit Unions to Add Select Groups.**

(a) An application by an eligible California credit union to add a select group to its field of membership shall be deemed approved by the Commissioner, if the following requirements are met:

(1) Not less than 10 business days before adding the proposed select group to the credit union's field of membership, the credit union shall file with the Commissioner a report which shall include the following information:

(A) A document signed by an authorized representative of the proposed select group or a letter signed by the common employer requesting that the credit union add the select group to the credit union's field of membership. Whenever possible, the document shall be submitted on the select group's letterhead stationery or the letterhead of the employer.

(B) A statement explaining how the select group shares a common bond of occupation or a common employer.

(C) A statement that the number of persons currently within the select group to be added to the credit union's field of membership is 1,000 or less.

(D) A statement as to the general locations of the select group to be added to the credit union's field of membership.

(E) Two copies of the bylaw amendment adding the select group of the field of membership of the credit union. The bylaw amendment shall be in the form of certificate of secretary or assistant secretary.

(2) The Commissioner does not reject the report called for in Subdivision (a)(1) within 10 business days after filing. The Commissioner may reject a report filed under Subdivision (a)(1) of this Section if the Commissioner finds that it is necessary or appropriate to regulate the addition of the proposed occupational or employee group to the credit union's field of membership, or for other good cause. If the Commissioner does not reject the report called for in Subdivision (a)(1), the bylaw amendment submitted with the report shall be deemed to be approved. The Commissioner may approve an application prior to the date an application is deemed approved.

(b) Within 30 days after an application is approved or is deemed to be approved, the Commissioner shall notify the credit union of the approval and shall provide the credit union with a copy of the bylaw amendment submitted with the report with the approval of the Commissioner endorsed thereon.

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14155 and 15451, Financial Code.

## **15. Section 30.101 is amended to read:**

### **§30.101. Delayed Funds Availability.**

~~(a) This section applies to all state and federally chartered credit unions which maintain offices in this state for the acceptance of deposits.~~

~~(b) For the purposes of this section, the following definitions apply:~~

~~(1) "Account" means a share account (other than a time deposit share account) or share draft account.~~

~~(2) "Business day" means a period of twenty-four hours following the close of business, as the close of business is determined by the credit union. Such twenty-four hour period shall not include Saturdays, Sundays or legal holidays.~~

~~(3) "Day of deposit" means the day on which a member transfers possession of an item to the depository credit union for deposit into his or her account after the close of business of the depository credit union the "day of deposit" shall mean the next business day of the depository credit union. For purposes of determining the day of deposit of an automated teller machine branch office, the depository credit union shall establish and post a cut-off time for the automated teller machine branch office and the cut-off time shall be deemed the close of business for purposes of this rule.~~

~~(4) "Depository credit union" means the credit union which maintains the account into which an item is first deposited.~~

~~(5) "Item" means a check, negotiable order of withdrawal, share draft, warrant or money order.~~

~~(c) Except as provided in Subdivisions (d) and (e), the reasonable time for collection and return of an item, and the reasonable time by which a depository credit union must permit a member to draw on an item deposited in a account as a matter of~~



~~right shall be not later than the opening of business on the next business day subsequent to the periods detailed below:~~

~~(1) For an item drawn on any depository institution in this state, five business days following the day of deposit;~~

~~(2) For an item drawn on any depository institution outside this state, nine business days following the day of deposit;~~

~~(3) For any item drawn on the depository credit union, one business day following the day of deposit.~~

~~(d) Notwithstanding Subdivision (c), the reasonable time for collection and return of any of the following items, and the reasonable time by which a depository credit union must permit a member to draw on any of the following items deposited in an account as a matter of right shall be not later than the opening of business on the next business day following the day of deposit:~~

~~(1) An item drawn in a face amount of one hundred dollars or less;~~

~~(2) A first-endorsed item drawn on the U.S. Treasury;~~

~~(3) A first-endorsed item drawn by the State of California or any political subdivision thereof;~~

~~(4) A first-endorsed item issued by a depository institution whose accounts are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.~~

~~(e) The time periods specified in Subdivisions (c) and (d) shall not apply in any of the following cases:~~

~~(1) If the depository credit union has received notice that the item has been or will be dishonored. Such notice must have been received from an intermediary bank, as defined in Subdivision (c) of Section 4105 of the California Uniform Commercial Code, or from the depository institution upon which the item is drawn.~~

~~(2) If the item is deposited within 30 calendar days of the opening of the account.~~

~~(3) If the depository credit union reasonably believes that the drawer or drawee has become, or is reasonably believed to become, subject to bankruptcy, receivership or similar proceeding, or when the depository credit union reasonably believes that a situation involving fraud or kiting exists.~~

~~(4) If the item is drawn on a office located outside of the states of the United States.~~

~~(5) If the item is subject to processing delay, that is, presentment delay, a mutilated item, a counter check, or an improperly encoded item.~~

~~(6) If the item is in the amount of two thousand five hundred dollars or more, other than an item drawn on the depository credit union.~~

~~(7) If the item is deposited in an account which on three separate occasions within a six-month period has been the subject of items drawn in excess of the available funds in the account to cover the items, whether the credit union has paid such items creating an overdraft or has returned the items, unpaid for a period of six months commencing with the last such incident. This exception does not include an account with overdraft privileges established pursuant to contractual agreement unless the depositor's credit line has been exceeded.~~

~~(f) In the case of exemptions set forth in Subdivision (e), there shall be "no such regulations," as the term "no such regulations" is used in California Uniform Commercial Code Section 4213(4)(a).~~

~~(g) Any delay by a depository credit union beyond the time limits prescribed by this section is excused if caused by interruption of communication facilities, suspension of payments by a bank or savings institution, emergency conditions or other circumstances beyond the control of the depository credit union, provided the depository credit union exercise such diligence as the circumstances require.~~

~~(h) This section shall not affect a depository credit union's right:~~

~~(1) to accept or reject an item for deposit, or~~

~~(2) to require written notice of an intended withdrawal.~~

~~(a) In this Section:~~

~~(1) "Credit union" means any of the following:~~

~~(A) A credit union organized under the laws of California.~~

~~(B) A federal credit union with its home office or a branch office in California.~~

~~(C) A credit union organized under the laws of a state other than California that maintains a branch office in California.~~

~~(2) "Deposit account" means a deposit account as defined in Section 866(b) of the Financial Code, and includes a share account and a share draft account, but does not include a share account with a stated maturity.~~

~~(3) "Item" means "check" as defined in 12 C.F.R. 229.2(k).~~

~~(b) A credit union shall make an item received for deposit into a deposit account that is maintained in a California office of the credit union available for withdrawal in accordance with Regulation CC (12 C.F.R. Part 229) of the Board of Governors of the Federal Reserve System.~~

~~(c) The time period within which an item is required to be made available for withdrawal pursuant to Regulation CC shall be deemed to be the reasonable time by which a credit union must permit a depositor to draw on an item deposited into a deposit account for the purposes of Sections 866.5 and 866.6 of the Financial Code.~~

~~Note: Authority cited: Sections 215, 866.5, and 866.6, Financial Code. Reference: Sections 866.5 and 866.6, Financial Code; Chapter 41 (commencing with Section 4001) of Title 12 of the United States Code; Part 229 (commencing with Section 229.1) of Title 12 of the Code of Federal Regulations.~~

## **16. Section 30.102 is amended to read:**

### **§30.102. Definitions.**

(a) The terms defined in the California Credit Union Law when used in this Subchapter shall have the meanings set forth in that law. In addition, the following definitions shall apply in this Subchapter:

(a) (1) ~~Management Personnel.~~ Shall "Management personnel" include includes the Chief Executive Officer, the Assistant Chief Executive Officer, the Chief Financial Officer, the Operations Manager, and the Credit Manager, or and any individual occupying a similar status or performing similar functions, ~~Treasurer, Assistant Treasurer, Manager, Assistant Manager, Credit Manager and Loan Officers.~~

~~(b) — (2) Gross Income. Gross income shall "Gross income" does not include non-operating gains or losses, entrance fees, transfer fees, recoveries on accounts previously charged to the guaranty fund, and or donated funds. Income from fines may be excluded from gross income if credited to the guaranty fund.~~

~~(c) — (3) Unimpaired Capital and Surplus. Means "Unimpaired capital and surplus" means the total of shares, plus undivided profits less any losses in excess of the guaranty fund and any special reserve for losses earnings, and appropriated undivided earnings, net of any income or loss for the accounting period, and does not include the regular reserve or unrealized gains or losses for changes in market values of available-for-sale investments.~~

~~(d) Delinquent Loans. A loan shall be considered one month delinquent when a monthly payment is not fully paid within one month after the payment's due date. Promissory notes which provide for payment other than on a monthly basis shall be converted into equivalent monthly payments for purposes of determining the delinquency of the loan.~~

~~(e) Risk Assets. Means all assets except the following:~~

~~(1) Cash on hand.~~

~~(2) Deposits and/or shares in Federally or State insured banks, savings and loan associations, and credit unions.~~

~~(3) Assets which are insured by, fully guaranteed as to principal and interest by, or due from the U.S. Government, its agencies, the Federal National Mortgage Association, or the Government National Mortgage Association.~~

~~(4) Loans to other credit unions.~~

~~(5) Loans to students insured under the provisions of title IV, part B of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) or similar State insurance programs.~~

~~(6) Loans that are fully or partially insured or guaranteed by the Federal or State government or any agency of either.~~

~~(7) Shares or deposits in central credit unions. A central credit union is defined as a credit union whose membership primarily consists of:~~

~~(i) — Other credit unions organized under State or Federal law.~~

~~(ii) — Officials, committee members, and employees of any credit union organized under State or Federal law, or~~

~~(iii) — Any combination of the categories described] in subdivisions (i) and (ii) of this subparagraph.~~

~~(8) Common trust investments which deal in investments authorized by the Federal Credit Union Act.~~

~~(9) Prepaid expenses.~~

~~(10) Accrued interest on nonrisk investments.~~

~~(11) Furniture and equipment.~~

~~(12) Land and buildings.~~

~~(13) Loans fully secured by a pledge of shares in the lending credit union, equal to and maintained to at least the amount of the loan outstanding.~~

~~(14) Loans which are purchased from liquidating credit unions and guaranteed by the National Credit Union Administration, the California Credit Union Share Guaranty~~

~~Corporation, or any other form of share insurance or guaranty entity acceptable to the Commissioner pursuant to Section 14858 of the Financial Code.~~

~~(15) National Credit Union Share Insurance Fund Guaranty Accounts established with the authorization of the National Credit Union Administration under the authority of Section 208(a)(1) of the Federal Credit Union Act, or similar accounts established by the California Credit Union Share Guaranty Corporation or other entities providing share insurance or guaranty acceptable to the Commissioner pursuant to Section 14858 of the Financial Code.~~

(4) "Risk assets" means all assets except the following:

(A) Cash on hand.

(B) Deposits and/or shares in federally or state-insured banks or savings and loan associations, or federally or privately insured credit unions that have a remaining maturity of 5 years or less.

(C) Assets that have a remaining maturity of 5 years or less and are insured by, fully guaranteed as to principal and interest by, or due from the U.S. Government, its agencies, the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association. Collateralized mortgage obligations that are comprised of government guaranteed mortgage loans shall be included in this asset category.

(D) Loans to other credit unions that have a remaining maturity of 5 years or less.

(E) Student loans insured under the provisions of title IV, Part B of the Higher Education Act of 1965 (20 U.S.C. 1071, et seq.) or similar state insurance programs that have a remaining maturity of 5 years or less.

(F) Loans that have a remaining maturity of 5 years or less and are fully or partially insured or guaranteed by the Federal or a state government or any agency of either. A loan which is partially insured or guaranteed by the Federal or a state government, or agency of either, shall be excepted pursuant to this Subdivision only to the extent that the loan is so insured or guaranteed.

(G) Shares or deposits in a corporate credit union that have a remaining maturity of 5 years or less, other than shares or deposits representing contributions to the membership capital as defined in 12 C.F.R. Part 704. A corporate credit union is a credit union that:

1. Is operated primarily for the purpose of serving other credit unions;

2. Is designated by the National Credit Union Administration as a corporate credit union; and

3. Limits natural person members to the minimum required by state or federal law to charter and operate the credit union.

(H) Mutual funds or trusts which are authorized by Section 30.300(b)(6) and are either carried at the lower of cost or market, or are marked to market value monthly.

(I) Prepaid expenses.

(J) Accrued interest on non-risk investments.

(K) Loans fully secured by a pledge of shares in the lending credit union, equal to and maintained to at least the amount of the loan outstanding.

(L) Loans which are purchased from liquidating credit unions and guaranteed by the National Credit Union Administration.

(M) National Credit Union Share Insurance Fund Guaranty Accounts established with the authorization of the National Credit Union Administration under the authority of Section 208(a)(1) of the Federal Credit Union Act (12 U.S.C. §1788(a)(1)).

(N) Investments in shares of the National Credit Union Administration Central Liquidity Facility.

(O) Assets included in Subparagraphs (B), (C), (D), (E), (F), and (G) with maturities greater than 5 years are exempt from risk assets if the asset is being carried on the credit union's records at the lower of cost or market, or are being marked to market value monthly.

(P) Assets included in Subparagraphs (B), (C), (D), (E), (F), and (G), with remaining maturities greater than 5 years are exempt from risk assets provided they meet the following criteria, irrespective of whether or not the asset is being carried on the credit union's records at the lower of cost or market, or are being marked to market value monthly:

1. The interest rate is reset at least annually.
2. The interest rate of the instrument is less than the maximum allowable interest rate for the instrument on the date of the required reserve transfer.
3. The interest rate of the instrument varies directly (not inversely) with the index upon which it is based and is not reset as a multiple of the change in the related index.

(Q) Fixed assets as authorized by Financial Code Sections 14402 and 14403.

(R) Deposit in the National Credit Union Share Insurance Fund representing a federally insured credit union's capitalization account balance of one percent of insured shares.

(S) Accounts deposited by a credit union with the insurer or guarantor that insures or guarantees the credit union's share accounts in accordance with Section 14858 of the Financial Code.

~~(f) Liquid Assets. Means assets that are immediately convertible into cash at a determinable value.~~

(b) (1) All references in this Subchapter and the California Credit Union Law to statements of financial condition, statements of income, statements of retained earnings, statements of cash flow, and other financial statements of a credit union and all references to assets, liabilities, earnings, retained earnings, and other accounting items of a credit union mean the financial statements or accounting items prepared or determined in conformity with generally accepted accounting principles then applicable, fairly presenting in conformity with generally accepted accounting principles the matters which they purport to present, subject to any specific accounting treatment required by any provision of the California Credit Union Law, of this Subchapter, of any other applicable law, or of any regulation or order issued under the California Credit Union Law.

(2) The Commissioner may, by regulation or order, require that a financial statement or accounting item of a credit union be prepared or determined in a manner other than in conformity with generally accepted accounting principles if the

Commissioner finds that such other manner is necessary or appropriate to carry out the purposes or provisions of the California Credit Union Law.

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14157, 14201, and 14202 Division 5, Financial Code.

**17. Section 30.103 is amended to read:**

**§30.103. Articles of Incorporation and Bylaws: Submission to Commissioner.**

(a) Before the articles of incorporation of a credit union, any restated articles, or any proposed amendments to the articles of incorporation, or any certificate of correction are filed with the Secretary of State, ~~a draft of the articles or the proposed amendment~~, the restated articles, the certificate of amendment, or the certificate of correction shall be submitted to the Commissioner for written approval. Upon receiving the Commissioner's written approval, the articles, the restated articles or the certificate with the approval of the Commissioner endorsed thereon, shall be filed with the Secretary of State, at which time the articles, the restated articles or the certificate shall be effective. Promptly after the articles, the restated articles, or the certificate is filed with the Secretary of State, the credit union shall file with the Commissioner a copy certified by the Secretary of State of the articles, the restated articles, or the certificate.

~~(b) A draft of the bylaws of a credit union or any proposed amendments to the bylaws shall be submitted to the Commissioner for written approval prior to adoption. If the Commissioner has approved standard bylaw provisions as appropriate for all credit unions, the board of directors may adopt such standard bylaw provisions without the Commissioner's prior approval but such bylaws or amended bylaws shall be filed with the Commissioner as provided in Subdivision (c).~~

~~(c) Within ten days after the articles of incorporation or amendments thereto have been filed with the Secretary of State, a copy of the articles or amendments showing the date of filing with the Secretary of State shall be filed with the Commissioner. Within ten days after the bylaws or amendments thereto have been adopted, a copy of the bylaws or amendments showing the date of adoption shall be filed with the Commissioner.~~

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14100, 14101.8, 14102.2, and 14102.4, 14101, 14102 and 14103, Financial Code.

**18. Section 30.105 is repealed.**

**~~§30.105. Field of Membership: Family of Member.~~**

~~A credit union's field of membership may include the immediate family of a member.~~

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14100, 14103, 14155 and 14800, Financial Code.

**19. Section 30.105 is added, to read:**

**§30.105. Bylaws: Submission to Commissioner.**

(a) The bylaws of a credit union and any amendment thereto shall become effective when a copy thereof certified by the secretary or assistant secretary of the credit union has been approved by and filed with the Commissioner.

(b) An application for approval of amendments to the bylaws of a credit union shall include:

(1) A certificate of secretary or assistant secretary, which shall include a statement that the bylaws, or the amendments thereto, were approved by the board of directors and, if applicable, by the required vote of the members of the credit union.

(2) A copy of the bylaw provision proposed to be amended which is marked to show changes between the existing provision and the provision as it is proposed to be amended.

(c) As a condition of approval of one or more amendments to the bylaws of a credit union, the Commissioner may require the credit union to submit for filing two copies of the restated bylaws of the credit union that incorporate the amendment or amendments approved in the application as well as all previously approved amendments. One copy of the restated bylaws shall be returned to the credit union with the approval of the Commissioner endorsed thereon.

Note: Authority cited: Section 14201, Financial Code. Reference: Section 14103, Financial Code.

## **20. Section 30.106 is repealed.**

### **~~§30.106. Unclaimed Funds.~~**

~~Unclaimed or abandoned funds should not be taken into income or become assets of a credit union. Such funds must be reported to the State Controller's Office, Bureau of Unclaimed Property, in accordance with Chapter 7, Title 10 of Part 3 of the Code of Civil Procedure.~~

~~Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14204, 14453 and 14700, Financial Code.~~

## **21. Repeal Section 30.109:**

### **~~§30.109. Central Credit Unions: Groups of Employees of a Common Employer.~~**

~~(a) The application made by the employer pursuant to Section 15451 of the Financial Code shall contain the following information:~~

~~(1) The location of the place of employment of the group of employees and the distance of such location from the principal office of the central credit union.~~

~~(2) A request by the employer to admit its employees as members in the central credit union.~~

~~(3) A statement by the employer that the group of employees is not served as a group by another credit union.~~

~~(4) A statement indicating acceptance of the employee group for membership by an authorized representative of the central credit union.~~

~~(b) Subsequent to the filing of the application, if the Commissioner determines that the employee group is not eligible to join the central credit union, the Commissioner may require the central credit union to rescind any agreement with the employer.~~

~~(c) For purposes of this section, the term "employees" includes the employer of the employees.~~

~~Note: Authority cited: Sections 14201 and 15451, Financial Code. Reference: Section 15451, Financial Code.~~

## **22. Section 30.300 is amended to read:**

### **§30.300. Investments.**

(a) Investments made by a credit union pursuant to Sections 14652, 14653 and 14653.5 of the Financial Code shall be subject to the following provisions:

~~(1) The board of directors of a credit union shall develop adopt and review on at least a quarterly basis annually, and the credit union shall comply with, a written investment policy which sets out the goals of the credit union's investment portfolio with respect to the yield, maturity, liquidity and diversification of such its investments. The maturity of such investments shall consider and include an analysis of the credit union's need for liquidity.~~

~~(2) Investments shall be recorded at cost.~~

~~(3) A credit union shall maintain a reserve account at least equal to the amount of any decline in the market value of its investments below cost. Such reserve account must be adjusted at least at the end of each accounting period.~~

~~(4) A credit union shall maintain documentary evidence that its investments are authorized pursuant to Sections 14652, 14653 and 14653.5 of the Financial Code and meet the requirements of this section Section.~~

(b) Pursuant to Section 14653.5 of the Financial Code, a credit union is authorized to make the following investments:

(1) Federal Funds: A credit union may sell funds to authorized financial institutions, provided that the interest or other consideration received from the authorized financial institution is the market value of federal funds transactions and that the transaction has a maturity of one or more business days or the credit union is able to require repayment at any time.

(2) Yankee Dollars: A credit union may invest in Yankee Dollar deposits in an authorized financial institution a United States branch of a foreign bank licensed to do business in the state in which it is located or in a state-chartered, foreign-controlled bank, if the branch of the foreign bank or the foreign-controlled bank are insured by the Federal Deposit Insurance Corporation.

(3) ~~Eurodollars~~ Eurodollar Deposits: A credit union may invest in Eurodollar deposits in a branch of an authorized financial institution.

(4) Bankers' Acceptances: A credit union may invest in bankers' acceptances issued by an authorized institution a bank insured by the Federal Deposit Insurance Corporation.

(5) Deposits: A credit union may invest in deposits of authorized financial institutions.



(6) Mutual funds or trusts: A credit union may invest in an "investment company" (commonly known as a "mutual fund") as defined in the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.) or trusts provided all investments and investment practices of the investment company or trust would be permissible if made directly by the credit union or federal credit unions.

(c) Credit unions may not engage in the following investment activities with respect to investments authorized by Subdivision (b):

(1) A credit union may not buy or sell a standby commitment.

(2) A credit union may not buy or sell a futures contract.

(3) A credit union may not engage in adjusted trading.

(4) A credit union may not engage in a short sale.

(5) A credit union's directors, officials, committee members and employees, and their immediate family members ~~of such individuals~~, may not receive pecuniary consideration in connection with the making of an investment or deposit by the credit union.

(d) For purposes of Subdivisions (b) and (c) of this ~~section~~, Section the following definitions shall apply:

(1) "Adjusted trading" means any method or transaction used to defer a loss whereby a credit union sells a security to a vendor at a price above its current market price and simultaneously purchases or commits to purchase from the vendor another security at a price above its current market price.

(2) "Authorized financial institution" means a national bank, state bank, trust company, ~~or mutual savings association bank, credit union, or other financial institution operating in accordance with~~ which is organized under the laws of the State of California, or banks or institutions the accounts of which are is insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.

(3) "Bankers' ~~Acceptance~~ acceptance" means a time draft that is drawn on and accepted by a bank, and that represents an irrevocable obligation of the bank.

(4) "Eurodollar deposit" means a deposit in a foreign branch of a United States depository institution.

(5) "Federal funds transaction" means a short-term or open-ended transfer of funds to an authorized financial institution.

(6) "Futures contract" means a contract for the future delivery of commodities, including certain government securities, sold on commodity exchanges.

(7) "Immediate family member," means a spouse or a child, parent, grandchild, grandparent, brother or sister, or the spouse of any such individual.

(8) "Market price" means the last established price at which a security is sold.

(9) "Maturity date" means the date on which a security matures, and shall not mean the call date or the average life of the security.

(10) "Security" means any security, obligation, account, deposit, or other item authorized for investment by a credit union.

(11) "Short sale" means the sale of a security not owned by the seller.

(12) "Standby commitment" means a commitment to either buy or sell a security, on or before a future date, at a predetermined price. The seller of the commitment is the party receiving payment for assuming the risk associated with committing either to

purchase a security in the future at a predetermined price, or to sell a security in the future at a predetermined price. The seller of the commitment is required to either accept delivery of a security (in the case of a commitment to buy) or make delivery of a security (in the case of a commitment to sell), in either case at the option of the buyer of the commitment.

(13) "Yankee Dollar ~~Deposit~~ deposit" means a deposit in a United States branch of a foreign bank licensed to do business in the state in which it is located, or a deposit in a state chartered, foreign controlled bank.

Note: Authority cited: ~~Sections~~ Section 14201 ~~and 14653.5~~, Financial Code. Reference: Sections ~~14204, 14205, 14652, 14653, and 14653.5~~, Financial Code.

## **23. Section 30.301 is amended to read:**

### **§30.301. Board of Directors: Minutes.**

(a) The secretary of a credit union shall maintain complete minutes of the board of directors' meetings. The minutes shall include authorization of investments and withdrawals, authorization of borrowing, authorization of charge-off of accounts ~~to the regular reserve~~, authorization of payments of interest refunds, declaration of dividends, authorization of purchase or lease of fixed assets, and approval of expenses of the credit union and either the approval of new members by the board of directors or a report of approval of new members by a committee appointed by the directors for that purpose. The names and account numbers of ~~new~~ members shall be maintained by either the board of directors or ~~their~~ the membership committee chairperson, or other person designated by the board of directors or by the membership committee chairperson.

(b) With respect to the authorization of charge-off of accounts, the board of directors may authorize the charge-off of the aggregate balance of two or more obligations, if no one obligation has a balance which exceeds \$20,000 and if a list of the obligations, by borrower and amount charged-off, is attached to and made a part of the minutes of the board meeting at which the charge-off is authorized.

Note: Authority cited: Section 14201, Financial Code. Reference: ~~Section 8320, Corporations Code; and Sections 14100 and 14502~~ 14250, 14453, 14456, 14650, and 14800, Financial Code.

## **24. Section 30.302 is amended to read:**

### **§30.302. ~~Verification~~ Confirmation of Accounts.**

~~(a)~~ A credit union shall confirm its accounts at least annually, in accordance with Subdivision (a) or (b) of this Section:

(a) If the credit union does not comply with Subdivision (b) of this Section, The the supervisory committee shall cause all the accounts of members to be ~~verified~~ confirmed with the members and the records of the credit union from time to time, but not less frequently than once each year. The verification of accounts may be made on either a positive or negative type basis. The confirmation of members' accounts may be made by using either a negative method applied to 100 percent of the credit union's

accounts or by using a positive method applied to a sample of the credit union's accounts derived by applying statistical sampling procedures. Within sixty (60) days after the date the accounts ~~were verified~~ are confirmed, the supervisory committee shall a report ~~shall be made~~ to the ~~Commissioner board of directors~~ that the ~~verification confirmation~~ of accounts has been completed. ~~Such~~ The report shall contain complete details of any unreconciled exceptions and shall be ~~certified~~ signed by a majority of the members of the supervisory committee. The confirmation of accounts report and returned requests for verification confirmation shall be made available to the Commissioner upon request and retained by the committee until the next regulatory examination of the credit union's records is made by the Commissioner.

(b) If a credit union does not comply with Subdivision (a) of this Section, the credit union shall have its accounts confirmed as part of an audit made pursuant to Section 14252 of the Financial Code. In such a case, a report of the confirmation of accounts shall be included in the report of the audit. If the verification in Subdivision (a) is performed by a public accountant as part of an audit for which an opinion will be expressed pursuant to Rule 58 of the California State Board of Accountancy (Title 16, Section 58, California Code of Regulations), a A form of statistical sampling of member's accounts in accordance with generally accepted auditing standards may be employed in lieu of a 100% (one-hundred percent) verification 100 percent confirmation. Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14203 14250, 14252, 14255, and 14553, Financial Code.

## **25. Section 30.303 is repealed.**

### **§30.303. Dividends.**

~~The board of directors may, pursuant to Subdivision (e) of Section 14456, and within the limitations of Sections 14862, 14900, and 14907 of the Financial Code, establish dividend rates in advance, declare or pay dividends to its members consistent with the following conditions:~~

~~(a) A dividend may not be declared or paid if a deficit in undivided profits exists or will be created by paying such a dividend.~~

~~(b) The board of directors shall provide reasonable opportunity for any member to be informed of the terms of all series of share accounts offered.~~

~~(c) If a credit union fails to pay a dividend on a share account according to the terms of the account, the member may withdraw the balance of the account without incurring any penalties.~~

~~Note: Authority cited: Sections 14201 and 14862, Financial Code. Reference: Sections 14002, 14204, 14456, 14862 and 14900-14907, Financial Code.~~

## **26. Section 30.304 is amended to read:**

### **§30.304. Purchase of Notes from Liquidating Credit Union.**

A credit union may purchase members' notes of a liquidating credit union, provided all of the following conditions are met:

(a) The purchase ~~will~~ shall not result in increases in expenses and losses to the credit union to the extent that it would impair the credit union's ability to pay normal dividends on shares.

(b) ~~The combined balance of the regular reserve and any special reserve for delinquent loans shall be an amount at least equal to the total amount required by Section 30.400 of these regulations after giving effect to the purchase of such notes. After the purchase of notes pursuant to this Section, the credit union shall establish a special reserve in accordance with generally accepted accounting principles.~~

(c) The amounts paid for the notes shall not exceed the ~~loan~~ limitations on obligations contained in the California Credit Union Law as they apply to the purchasing credit union.

(d) A purchase agreement ~~must~~ shall be signed by the board of directors or authorized officer of the purchasing credit union and the board of directors or authorized liquidating agent of the selling credit union; ~~and~~ .

(e) The written consent of the Commissioner ~~has~~ shall have been obtained authorizing the credit union to purchase such the members' notes.

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14204, 14656 and ~~14704~~ 14702, Financial Code.

## **27. Section 30.306 is amended to read:**

### **§30.306. Investments in Fixed Assets and Service Corporations.**

(a) In this Section:

(1) "Section 14402 investment" means an investment in real property which is made pursuant to Section 14402 of the Financial Code.

(2) "Section 14403 investment" means an investment in personal property which is made pursuant to Section 14403 of the Financial Code.

(3) "Section 14650 investment" means an investment in shares of a corporation which is made pursuant to Section 14650 of the Financial Code.

(4) "Section 14651 investment" means either of the following:

(A) An investment in the shares of a corporation, or in the membership or economic interests of a limited liability company, which is made pursuant to Section 14651(a) of the Financial Code.

(B) An investment in the securities of a corporation or in the membership or economic interests of a limited liability company, which is made pursuant to Section 14651(b) of the Financial Code.

(b) ~~A credit union shall not invest in real or personal property and shares of a corporation pursuant to Sections 14402, 14403, 14650 and 14651 of the Financial Code make a Section 14402 investment, a Section 14403 investment, a Section 14650 investment, or a Section 14651 investment, if the aggregate of all proposed and current Section 14402 such investments, Section 14403 investments, Section 14650 investments and Section 14651 investments, including current investments, exceeds 20% ten percent of unimpaired capital and surplus, unless a greater amount is authorized in writing by the Commissioner.~~

~~(b)~~ (c) In requesting the written approval of the Commissioner to exceed the limitation in Subdivision ~~(a)~~ (b), a credit union shall set forth in writing the following information:

(1) The current total amounts in invested real property, personal property and shares amount of Section 14402 investments, the total amount of Section 14403 investments, the total amount of Section 14650 investments, and the total amount of Section 14651 investments held by the credit union. The total amount

(2) The aggregate of such current investments, and the

(3) The amount, if any, by which such investments exceed the aggregate exceeds the limitation in Subdivision (a), if any. Give (b).

(4) In the case of Section 14650 investments, the full legal name of any each corporation in which the credit union owns shares and the percentage of outstanding shares owned by the credit union.

(5) In the case of Section 14651 investments:

(A) The name of each corporation in which the credit union owns shares and the percentage of outstanding shares owned by the credit union.

(B) The name of each corporation in which the credit union owns securities, other than shares, and the percentage of such securities currently outstanding which are owned by the credit union.

(C) The name of each limited liability company in which the credit union owns a membership or economic interest and the percentage of outstanding membership or economic interests of such limited liability company which is owned by the credit union.

(2) (6) The amount proposed to be invested the credit union proposes to invest in Section 14402 investments, in Section 14403 investments, in Section 14650 investments, and in Section 14651 investments. in real property, personal property and/or shares. The total

(7) The amount by which all investments, including current investment the sum of the proposed Section 14402 investments, Section 14403 investments, Section 14650 investments and Section 14651 investments, plus amounts currently invested in Section 14402 investments, Section 14403 investments, Section 14650 investments, and Section 14651 investments, will exceed the limitation in Subdivision (a) (b). Give the full legal

(8) In the case of Section 14650 investments, the name of any each corporation in which the credit union proposes to purchase shares and the percentage of outstanding shares the credit union will own after the proposed transaction.

(9) In the case of Section 14651 investments, the name of each corporation or limited liability company in which the credit union proposes to purchase securities, or membership or economic interests, and the percentage of outstanding securities or membership or economic interests the credit union will own after the proposed transaction.

(3) The (10) A statement of the necessity for exceeding the limitation in Subdivision (a) (b). In setting forth the necessity for the excess investments, a credit union shall do all the following:

(A) In case of a Section 14402 investment or a Section 14403 investment, Describe describe the real or personal property to be acquired or acquired.

(B) In case of a Section 14650 investment or a Section 144651 investment, describe the corporation or limited liability company in which the credit union is purchasing shares; securities or membership or economic interests.

~~(B)~~ (C) Analyze the cost and benefits of the proposed investment;.

(C) ~~(D)~~ Describe alternatives to purchasing the property shares making the investment, such as leasing, renting, otherwise periodically paying for or not acquiring the use of the property; and.

(4) ~~(11)~~ (A) A statement as to whether or not the credit union will initially occupy and/or use all of the real or personal property. If not, state the In case of a Section 14402 investment or Section 14403 investment, the percentage of the property to be initially occupied and/or or used by the credit union and state, and, if applicable, the full legal name of the person or persons, if known, whom who the credit union anticipates will occupy and/or or use the remaining any portion of the real or personal property.

(B) Give the full legal The name of the person or persons from whom the credit union will proposes to acquire the real or personal property or shares.

(5) ~~(12)~~ A statement to the effect Confirmation that the investment will not impair the credit union's ability to pay normal dividends on shares or make loans to enter into obligations.

(c) ~~(d)~~ Within forty-five (45) days of receipt of a complete request for approval to exceed the limitation in Subdivision (a) (b) of this rule Section, the Commissioner shall approve or disapprove the request. Within forty-five (45) days of a receipt of an incomplete request, the Commissioner shall notify the credit union that the request is incomplete and shall specify the information needed to complete the request.

(e) In case a credit union has investments, as of the effective date of the amendment to this Section, which exceed the limitations provided for in this Section but which were made in conformity with the law in effect at the time the investment was made, the credit union shall not be deemed to be in violation of this Section. However, the credit union shall not make any additional investment subject to this Section without first complying with Subdivision (b) of this Section.

Note: Authority cited: ~~Sections~~ Section 14201 and 14404, Financial Code. Reference: Sections 14204, 14402, 14403, 14650, and 14651, and 15100, Financial Code.

## **28. Section 30.400 is repealed:**

### **§30.400. Regular Reserve: Additional Reserves.**

~~The Commissioner may require reserves for delinquent obligations in addition to the regular reserve of a credit union if such regular reserve does not at least equal a sum computed as follows:~~

~~(a) 10% of the unpaid balance of obligations which are two but less than six months delinquent; plus~~

~~(b) 25% of the unpaid balance of obligations which are six but less than twelve months delinquent; plus~~

~~(c) 80% of the unpaid balance of obligations which are twelve or more months delinquent; plus~~

~~(d) 100% of the unpaid balance of obligations where the debtor has filed bankruptcy (other than under Chapter XIII of the Bankruptcy Act); plus~~

~~(e) 100% of the unpaid balance of obligations where the board of directors or any officer has determined that the location of the debtor is unknown; plus~~

~~(f) 100% of the amount of obligations assigned to an agent or attorney for collection.~~

~~For the purpose of computing monthly payments paid in this section, when deemed necessary for the protection of credit union members, the Commissioner may require that transfers from a member's share account to that member's obligation account will be counted as paid monthly payments only if equivalent payments are made by the member into the share account or if the arrangement is temporary and does not exceed the equivalent of three consecutive monthly payments or if done in accordance with a plan approved by the Commissioner.~~

~~Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14007, 14203, 14204, and 14702, Financial Code.~~

## **29. Section 30.401 is amended to read:**

### **§30.401. Extensions, Refinances, Renegotiations or Revisions.**

~~(a) Obligations that are delinquent shall not be extended, refinanced, renegotiated, or revised unless there is evidence that the borrower will be able to adhere to the terms of the intended extended, refinanced, renegotiated, or revised obligation. Any obligation which has been extended, refinanced or revised and which subsequently becomes two or more months delinquent during any 12-month period, shall be evaluated in accordance with its original terms and payment record for purposes of Section 30.400 of this Chapter.~~

~~(b) For the purposes of subdivision (a), an obligation shall not be deemed to be "extended" if the term of the obligation is lengthened by any of the following:~~

~~(1) The terms and conditions of the obligation provide for a "skip payment" option.~~

~~(2) A general offer is made by a credit union to all its members in good standing to skip a payment, provided no more than two payments per calendar year are skipped in reliance on this paragraph.~~

~~Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14007 and 14950, Financial Code.~~

## **30. Section 30.402 is repealed.**

### **§30.402. Charge-off of Obligations.**

~~Notwithstanding the reserve requirements of Section 30.400 of this Chapter, any obligation which the board of directors or any officer has determined to be uncollectable or on which no payments which in the aggregate equal a full payment have been received within the past twelve months and which is delinquent twenty-four months or more shall be charged to the regular reserve, unless litigation to collect the obligation is in progress or unless the borrower has filed a petition under the federal Bankruptcy Act~~

~~and the plan provides for payment of the obligation. Obligations shall be reviewed at least once each month and obligations subject to charge-off under this section shall be charged to the regular reserve at least quarterly. The applicable share account balances shall be applied to the obligation balances prior to charge-off.~~

~~Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14007, 14204 and 14701, Financial Code.~~

**31. Section 30.402 is added, to read:**

**§30.402. Charge-Offs of Obligations.**

(a) (1) A credit union shall charge off each of the following types of obligations:

(A) An obligation repayable monthly on which no full monthly contractual payments have been made within the past 180 days, unless the obligor has filed a petition under either Chapter 11 or Chapter 13 of the Bankruptcy Code (Title 11 of the United States Code) and the obligor's confirmed reorganization or debt adjustment plan provides for payment of the account.

(B) An obligation repayable by other than monthly payments or repayable in a single payment on which no full contractual payment has been made within 180 days from the due date of the first past due and unpaid installment.

(C) An obligation which the board of directors or the Commissioner has determined as uncollectable.

(D) An obligation on which payments received during the past 180 days have not been sufficient to reduce the principal balance of the obligation, unless the contract creating the obligation does not require a reduction in the principal balance of the obligation but provides for the principal balance to be paid off at the time the obligation matures.

(2) Paragraph (1) of this Subdivision is not an exclusive list of the types of obligations that a credit union is required to charge off.

(b) A credit union shall review its obligations at least once each month and shall, within 30 days after the review, charge off any obligation that is found on the basis of the review to be required to be charged off under Subdivision (a) of this Section.

(c) If, instead of charging off an obligation in full as required by this Section, a credit union writes off less than the full amount of the obligation, the credit union shall not be deemed to be in violation of this Section if the Commissioner finds that use of the lesser amount fairly states the credit union's financial condition.

Note: Authority cited: Section 14201, Financial Code. Reference: Section 14703, Financial Code.

**32. Section 30.403 is amended to read:**

**§30.403. Regular Reserve: Losses Chargeable Thereto to Regular Reserve.**

~~One purpose of the regular reserve is as a reserve for losses and possible losses from members' obligations. Losses on members' obligations may be charged to the regular reserve. However, the written Written consent of the Commissioner must shall be~~



obtained before any operating losses may be charged to the regular reserve under ~~Sections 14007 and~~ Section 14701 of the Financial Code.

Note: Authority cited: Section 14201, Financial Code. Reference: ~~Sections 14007 and~~ Section 14701, Financial Code.

### **33. Section 30.404 is amended to read:**

#### **§30.404. Regular Reserve: Shares Insured.**

(a) As used in this Section, "credit union" means any credit union the share accounts of which are insured other than by the National Credit Union Share Insurance Fund.

~~(b) A credit union that has been in operation for more than four years, has gross assets of \$1,000,000 or more, and maintains continuing insurance of its accounts pursuant to Section 14858 of the Financial Code may, in lieu of the requirements of Section 14700 of the Financial Code, shall maintain a regular reserve as follows:~~

~~(1) After the payment of organization expenses, all entrance and transfer fees shall be credited to the regular reserve determined in accordance with this Subdivision, or as otherwise specified by the Commissioner pursuant to Financial Code Section 14700.~~

~~(2) At the close of each accounting period, 10% of the gross income of the credit union shall be transferred to the reserve until the reserve equals 4% four percent of total risk assets, then 5% five percent of the gross income of the credit union until the reserve equals 6% six percent of total risk assets. Whenever the reserve falls below the above ~~limits~~ levels, it shall be replenished by contributions as may be needed to meet the required levels of 4% ~~or 6%~~ four percent or six percent, as the case may be.~~

~~(3) Any sums recovered on items previously charged to the regular reserve shall be credited to the regular reserve.~~

~~(b) (c) A credit union that has been in operation for more less than four years but has gross assets of less than \$1,000,000, may apply to the Commissioner for authority to maintain its regular reserve at a percentage rate and level less than required by Section 14700 of the Financial Code shall maintain a regular reserve of at least the level specified by the Commissioner in his or her approval of the credit union's application for a certificate to act as a credit union, or as otherwise specified by the Commissioner pursuant to Financial Code Section 14700.~~

Note: Authority cited: Section 14201, Financial Code. Reference: Section 14700, Financial Code.

### **34. Section 30.405 is amended to read:**

#### **§30.405. ~~Regular Reserve: Transfer to~~ Transfers Between Undivided Profits Earnings and Regular Reserve.**

(a) As used in this Section, "credit union" means any credit union the share accounts of which are insured other than by the National Credit Union Share Insurance Fund.

(b) A credit union which has a regular reserve in excess of the greater applicable percent established by Section 30.404 and Subdivision (c) of Section 30.300 six percent of risk assets, may, with the approval of the board of directors and subject to generally accepted accounting principles, apply to the Commissioner to transfer any or all of the excess to the undivided profits earnings account; provided, however, that 6% of total risk assets is at least twice the reserves required for delinquent obligations by Section 30.400 and reserves required for the decline in market values of securities by Section 30.300(c).

(c) A credit union may, with the approval of the board of directors and subject to generally accepted accounting principles, make transfers from the undivided earnings account to the regular reserve account in excess of the amount required to be transferred.

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14002, 14007 and Section 14700, Financial Code.

### **35. Section 30.406 is added to read:**

#### **§30.406. Reserve and Capital Requirements: NCUA-Insured Institutions.**

(a) As used in this Section, "credit union" means a credit union the share accounts of which are insured by the National Credit Union Share Insurance Fund.

(b) A credit union is not subject to Sections 30.404 and 30.405, but remains subject to Financial Code Section 14700.

(c) A credit union shall maintain its equity capital at a level at least equal to the minimum net worth ratio specified for the net worth category of an adequately capitalized credit union, as defined in the Prompt Corrective Action regulations of the National Credit Union Administration (12 C.F.R. Section 702.1 et seq.)

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14400 and 14700, Financial Code; Part 702 (commencing with Section 702.1) of Title 12 of the Code of Federal Regulations.

### **36. Section 30.500 is repealed.**

#### **§30.500. Insurance Protection for Obligations Secured by Personal Property.**

~~An obligation secured by personal property shall be adequately protected by insurance of the collateral during the term of the obligation, as follows:~~

~~(a) A motor vehicle shall be protected by collision, fire, theft and comprehensive insurance.~~

~~(b) Household goods or similar chattels shall be protected by fire insurance.~~

~~(c) A boat shall be protected by collision and comprehensive insurance as well as insurance adequately protecting those having an interest therein against (1) liability as a result of negligent operations, and/or as a result of salvage claims, and/or as a result of supplying services and supplies; and (2) loss or damage resulting from fire and/or theft.~~

~~(d) An airplane shall be protected by collision and comprehensive insurance as well as insurance adequately protecting those having an interest therein against (1)~~

~~liability as a result of negligent operation, as a result of storage and/or as a result of any violation of Treasury Air Customs and Health Regulations; and (2) loss or damage resulting from fire and/or theft; except that a credit union need not be protected against liability as a result of negligent operation or as a result of storage if it reasonably relies on 49 U.S.C.A 1404 (Pub.L. 85-726, Title V, Section 504) and has arranged for itself adequate liability coverage in the event of repossession of the aircraft and for such time as the aircraft may be in the possession and control of the credit union or its agent.~~

~~(e) The credit committee, or the credit manager, may waive the insurance requirement as provided in Subdivisions (a), (b), (c) and (d) hereof for any obligation where the aggregate of such obligations does not exceed the unsecured obligation limits as provided in the California Credit Union Law.~~

~~Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14007, 14204, 14953, 14955 and 15100, Financial Code.~~

**37. Section 30.500 is added, to read:**

**§30.500. Insurance Protection for Obligations Secured by Personal Property.**

The board of directors of a credit union shall adopt and review at least annually, and the credit union shall comply with, a policy on insuring personal property that secures an obligation. The policy shall (a) provide that, subject to reasonable and specified exceptions, personal property securing an obligation shall be insured in an amount at least equal to the lesser of (1) the principal balance of the obligation or (2) the fair market value of the personal property security, and (b) protect against such risks as the board of directors deems necessary or advisable to protect the credit union's interests.

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14950, 14952, 14955, and 15100, Financial Code.

**38. Section 30.501 is amended to read:**

**§ 30.501. Vendor's Single Interest (V.S.I.) Insurance**

If a credit union ascertains that insurance required by ~~Subdivision (a) of Section 30.500 of these rules~~ with respect to motor vehicles is not obtainable for a borrower, a V.S.I. insurance policy may be purchased and the cost may be added to the borrower's obligation account. In taking such action, the credit union must comply with the following:

(a) Obtain at the time the obligation is made (or at any time prior to the purchase of V.S.I. insurance) a written authorization from the borrower, which will enable the credit union to purchase V.S.I. insurance and add the cost of the premium to the borrower's obligation account in the event that such should become necessary. Such authorization shall include a statement (in 8-point bold type) in which the borrower acknowledges that such V.S.I. insurance is without benefit to him individually but is primarily for the protection of the credit union.

(b) Fifteen days (15) prior to the purchase of V.S.I. insurance, the credit union must give written notice to the borrower that it is its intention to procure such insurance (if a dual coverage policy is not obtained and presented) and that the cost of the V.S.I.

premium will be added to the borrower's obligation account. Evidence of such a notification must be retained by the credit union in the member's file.

(c) Upon purchasing a V.S.I. policy, the credit union must immediately inform the borrower of such action, including the amount of the premium, the period of the coverage, and the fact that the premium has been added to his obligation account.

(d) A credit union may obtain a blanket V.S.I. insurance policy provided the premium is paid for by the credit union and not by borrowers individually. Where a credit union does have such a blanket policy in force, signed statements of the borrower ("Borrower's Agreement to Provide Insurance" or an equivalent statement), indicating his intention to obtain an individual policy of insurance from a carrier of his choice will be considered to be evidence of compliance with ~~Subdivision (a)~~ of Section 30.500 of this Chapter.

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14007, 14201, 14204, 14953, 14955 and 15100, Financial Code.

### **39. Section 30.600 is amended to read:**

#### **§30.600. Books and Records: Standard for Keeping Books and Records .**

(a) A credit union shall maintain its books and records in accordance with generally accepted accounting principles ~~of accounting~~ and good business practice, except as otherwise provided for in the California Credit Union Law, in this Subchapter, in any other applicable law, or by order of the Commissioner.

(b) A credit union shall keep its books on an accrual basis ~~except that earned interest on members' loans that has not been collected shall normally not be accrued in the records. For the purpose of this rule only, a loan to another credit union shall not be considered a loan to a member~~ of accounting or other basis of accounting as permitted by the Commissioner.

Note: Authority cited: Section 14201, Financial Code. Reference: Sections ~~14203, 14204, and 14300~~ 14250 and 14252, Financial Code.

### **40. Section 30.602 is amended to read:**

#### **§30.602. Books and Records: Retention of Books and Records.**

(a) The following books and records are to be retained permanently at the office of the credit union.

(1) Articles of ~~Incorporation~~ incorporation, bylaws and amendments to the articles and bylaws.

(2) Certificate to act as a credit union, amendments thereto, and administrative orders of the Commissioner.

(3) Letters and other official instructions of permanent character received from the Commissioner.

(4) Minutes of meetings of the members and board of directors.

(5) Members' subsidiary ledger accounts which have a balance remaining.

(b) ~~The following~~ Other books and records, except daily data processing print outs, shall be retained at the office of the credit union for a minimum of five (5) years

after the close of the fiscal year for which ~~such~~ the records were transcribed, including all of the following:

- (1) General ledger and expense ledger.
- (2) Journals, including the general journal and cash journal or other record of cash receipts and disbursements.
- (3) Monthly financial reports required by Section 30.701 of this Chapter.
- (4) Copies of the supervisory committee's audit reports.
- (5) Members' subsidiary ledger accounts which were reduced to a zero balance during such fiscal year.
- (6) Minutes of the supervisory committee and the credit committee.
- (7) Paid checks or records of checks paid, and bank statements for the credit union's accounts.

(c) The records of a credit union ~~specified in Subdivisions (a) and (b)~~ shall be maintained in a form which is accessible to the inspection of the Commissioner ~~within two (2) business days after notice and which permits the production of transcripts readily and economically.~~

(d) ~~Paid checks and bank statements shall be retained in their original form for a minimum of five (5) years after the date of posting to the bank statement, except as authorized in writing by the Commissioner.~~

(e) ~~Other records, except daily data processing printouts, shall be maintained in accordance with Subdivisions (b) and (c), unless an earlier destruction date is authorized in writing by the Commissioner.~~

(f) ~~When necessary for the purposes of the~~ California Credit Union Law, the Commissioner may direct a credit union to maintain its records for periods in addition to those prescribed in Subdivision (b) of this Section.

Note: Authority cited: Section 14201, Financial Code. Reference: ~~Sections 14203, 14204, Section 14250 and 14251,~~ Financial Code.

#### **41. Section 30.603 is repealed.**

##### **~~§30.603. Accounting: Change of System.~~**

~~A credit union shall not change its type of record keeping from a manual system to a data processing system, or from one data processing system to another data processing system, without written advice to the Commissioner thirty days prior to the earlier to occur (a) the signing of a purchase contract or (b) the institution of the system.~~

Note: Authority cited: Section 14201, Financial Code. Reference: ~~Sections 14203, 14204, 14250 and 14300,~~ Financial Code.

#### **42. Section 30.604 is repealed.**

##### **~~§30.604. Disbursements.~~**

(a) ~~All disbursements of credit union funds, other than small amounts made from petty cash, shall be by press-numbered checks or by cash where a proper change fund is provided and press-numbered cash disbursed vouchers signed by the member are~~

~~retained for accounting purposes or by an alternative method that will provide sufficient records of the disposition of disbursed funds to form an adequate audit trail.~~

~~(b) Checks shall not be drawn at the request of a borrower, shareholder or certificate holder to a third party payee without the written authorization of such borrower, shareholder or certificate holder.~~

~~Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14203, 14204, 14250 and 14300, Financial Code.~~

#### **43. Section 30.605 is amended to read:**

##### **§30.605. Deposit of Funds.**

Unless specific authority has been granted by the Commissioner, all funds received (except cash needed to replenish vault cash at levels authorized by the board of directors) shall be deposited in accordance with Section 14406 of the Financial Code by the credit union within 48 hours of their receipt (exclusive of Saturdays, Sundays and holidays), provided, however, that receipts in the aggregate amount of ~~\$100~~ \$1,000 or less need not be deposited more often than once each week. The deposit slips shall be prepared in duplicate, the duplicate copy to be retained by the credit union as a part of its accounting records.

~~Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14204 and Section 14406, Financial Code.~~

#### **44. Section 30.700 is amended to read:**

##### **§30.700. ~~Reporting Elected Officials and Management Personnel Report Regarding Officers and Directors.~~**

~~(a) Within fifteen (15) 30 days after the board of directors' meeting required by Section 14454 of the Financial Code, board of directors elects the officers of a credit union, the secretary the credit union shall notify file a report with the Commissioner of which lists the names of the credit union's officers, including the chief executive officer or individual occupying a similar status or performing similar functions, . At this time the secretary shall also notify the Commissioner of the names of the members of the board of directors, the members and alternate members of the credit committee or the credit manager, whichever is applicable, and the members of the supervisory committee and management personnel.~~

~~(b) The secretary of a credit union shall notify the Commissioner within ten (10) days of every change in the directors, officers, members and alternate members of the credit committee, members of the supervisory committee and management personnel.~~

~~(b) Notwithstanding Subdivision (a), a credit union shall notify the Commissioner of any change in the manager or chief executive officer of the credit union no later than 30 days after making the change, unless the change is made within 30 days before the filing of the report required by Subdivision (a) and the change is included in such report.~~

~~(c) The reports of all newly appointed management personnel, namely, the person performing the duties of chief executive officer, Treasurer, Assistant Treasurer,~~

~~Manager, Assistant Manager, Credit Manager, and Loan Officers, required by this rule shall include a complete identification of each person.~~

~~(d) The reports required by this rule shall be on forms provided by the Commissioner.~~

Note: Authority cited: ~~Sections~~ Section 14201 and 14255, Financial Code. Reference: Sections 14155, 14204, 14205 and Section 14255, Financial Code.

#### 45. Section 30.701 is amended to read:

##### **§30.701. Treasurer's Financial Statement and Report of Delinquent Loans Obligations.**

(a) In this Section, "delinquent," when used to describe an obligation, means:

(1) In the case of an obligation repayable in monthly installments, an obligation for which payment in full of a monthly contractual installment is not received within one month after the installment is due and such payment has not yet been received.

(2) In the case of an obligation repayable in other than monthly installments or repayable in a single payment, an obligation for which payment in full of a contractual payment has not been received within one month after the payment is due and such payment has not yet been received.

(b) Within twenty-one (21) days after the close of each calendar month the treasurer of a credit union shall prepare and submit to the its board of directors and to the supervisory committee the following:

(a) (1) A balance sheet showing the condition of the credit union statement of financial condition as of the last day of said the calendar month.

(b) (2) A statement of income for the current period.

(c) (3) A detailed report of delinquent loans which shall also state the aggregate the total number and total amount unpaid balance of loans obligations delinquent at month end, aggregated in each of the following categories, as of the end of the calendar month: shown in Section 30.400 of these rules.

(A) Obligations which are at least two but less than six months delinquent.

(B) Obligations which are at least six but less than twelve months delinquent.

(C) Obligations which are twelve or more months delinquent.

(D) Obligations, which may or may not be delinquent, but where any one of the following applies:

1. The obligor has filed for relief under the Bankruptcy Code (other than under Chapter 11 or Chapter 13 of the Bankruptcy Code) (Title 11 of the United States Code).

2. The board of directors or an officer has determined that the location of the obligor is unknown.

3. The obligation has been assigned to an agent or attorney for collection.

(c) The treasurer credit union shall forthwith post a copy copies of said balance sheet and income statement its statement of financial condition and statement of income in a conspicuous place in the each office of the credit union or at a place convenient to the members as designated by the board of directors, where it they shall remain posted until replaced by the financial-statement statements of the next succeeding month. In lieu of posting copies of such financial statements, a credit union

may post a notice in a conspicuous place in each office of the credit union stating that copies of the financial statements are available upon request, and the credit union shall make copies of the financial statements available to members upon request.

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14403(d), 14456, 14502, and 14453, 14551, and 14553, Financial Code

**46. Section 30.801 is amended to read:**

**§30.801. Loan Officers: Approval of Extension of Credit Authority to Vary Obligation Payment Schedule.**

(a) A loan officer appointed pursuant to Section 14602 of the Financial Code may:

(1) ~~extend a loan for up to three~~ Extend a close-ended obligation, provided, however, a close-ended obligation shall not be extended more than twice during the term of the obligation, and any one extension may not be for more than two consecutive contractual payments during any twelve-month period.

(2) Defer contractual payments due with respect to open-ended obligations, provided that contractual payments with respect to any open-ended obligation shall not be deferred more than once during any twelve-month period.

(b) ~~Any extensions extension or deferral in excess of this limitation must the limitations specified in this Section shall~~ be approved by the board of directors, the credit committee or the credit manager.

Note: Authority cited: Section 14201, Financial Code. Reference: Section 14602, Financial Code.

**47. Section 30.802 is repealed.**

**§30.802. Loans Secured by Real Property.**

(a) ~~A loan secured by a mortgage or deed of trust on real property is permitted for only real property owned by the member-borrower which is one or more of the following:~~

(1) ~~Unimproved or improved, which has or will have not more than four residential units, and which is or will be the principal or second residence of the member-borrower;~~

(2) ~~One other parcel, which is unimproved or improved, which has or will have not more than four residential units, and which is not and will not be the principal or second residence of the member-borrower;~~

(3) ~~Agriculturally zoned.~~

(b) ~~In making such loans, the credit union shall comply with the following:~~

(1) ~~A loan secured by unimproved real property shall be by a first lien on the property and the loan shall not exceed 60% of the appraised value of the property nor have a term that exceeds 30 years.~~

(2) ~~A loan secured by improved real property shall be secured:~~

(A) ~~by a first or second lien on the property and the loan shall not, together with any loan secured by a prior encumbrance, exceed 80% of the appraised value of the~~



~~property (except to the extent the loan will be insured by an instrumentality of the federal government or by a policy of private mortgage insurance written by an insurance company admitted in California) nor have a term that exceeds 40 years if the loan is secured by a first lien, or 30 years, if the loan is secured by a second lien; or~~

~~(B) by a third lien, provided the second lien is held by the credit union and the loan will not, together with the loans secured by all prior encumbrances, exceed 80% of the appraised value of the property (except to the extent the loan will be insured by an instrumentality of the federal government or by a policy of private mortgage insurance written by an insurance company admitted in California) nor have a term that exceeds 30 years.~~

~~(3) The promissory note shall provide for equal monthly payments including principal and interest which shall amortize the principal amount during the term of the loan, unless the promissory note contains provisions to adjust the amount of each payment, the number of monthly payments, or both, as is necessary because of changes in the interest rate charged to amortize the principal amount during the term (or, if applicable, the adjusted term) of the loan, and the loan is made subject to one or more of the following provisions:~~

~~(A) The loan is a line of credit loan. As used in this section, "line of credit loan" means a loan whereby a borrower requests and a credit union disburses loan proceeds in an installment or installments during the term of the loan by an advance or series of advances, whether or not the timing of the advance or advances is known on the date the loan is approved by the credit union.~~

~~(B) The loan is secured by a mortgage or deed of trust on real property which has or will have not more than four residential units.~~

~~(C) The promissory note contains an option or series of options by the credit union to call the loan during a sixty day period commencing not sooner than two years, nor later than seven years, from the date of each option period, there are no penalties for prepayment by the borrower, and the following written disclosure, or its substantial equivalent, is given to the borrower:~~

~~"Notice of \_\_\_\_\_ Year Call Option~~

~~"Your lender has the right to call this loan due on [the or each] \_\_\_\_\_ anniversary of the loan. The lender may exercise this right any time during the thirty-day period immediately following [the or each] \_\_\_\_\_ anniversary date of the loan. "If the lender exercises its right to call the loan, upon receipt of notice, YOU WILL BE REQUIRED TO PAY THE LOAN IN FULL (OR ARRANGE NEW FINANCING) WITHIN NINETY (90) DAYS. You should be aware that interest rates in effect at the time of the call may be substantially higher than the interest rate on the original loan. "It cannot be predicted at this time whether or not the lender will exercise the option; however, it will generally be to the lender's advantage to exercise the option if an increase in interest rates has occurred or is anticipated, if the term of the loan extends significantly beyond the option date, or if other reasons exist making the call of the loan advantageous to the lender."~~

~~(4) A loan shall not be made when a prior encumbrance(s) on the property requires a final lump sum payment that is more than twice the amount of a regular payment.~~

~~(5) The promissory note and deed of trust shall include a clause which provides that the promissory note shall immediately become due and payable in the event the real property or any part thereof, or any interest therein, is sold, agreed to be sold or conveyed by the trustor or by the operation of law or otherwise.~~

~~(6) A policy of title insurance shall be obtained naming the credit union as the insured and affirming the quality, priority and validity of the credit union's lien for all loans of \$50,000 or more. No policy of title insurance shall contain exceptions which would preclude the credit union in the event of foreclosure of the lien from obtaining marketable title to the property.~~

~~(7) Adequate hazard insurance on the property shall be maintained during the term of the loan unless this requirement is waived by the credit committee or credit manager which waiver may only be on loans which do not exceed the unsecured loan limits provided in the California Credit Union Law and in the credit union's written loan policy.~~

~~(c) Unless a lesser percentage is ordered by the Commissioner, the total of loans and line of credit loan advances outstanding which are secured by liens on real property shall not exceed 40% of the total of all of the credit union's outstanding loans and advances. However, a credit union that has gross assets of \$20,000,000 or more, a written asset liability plan or policy in effect, and has made real property loans for more than four years, may exclude from this 40% limitation the following loans:~~

~~(1) Any loans meeting the standards of the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation.~~

~~(2) Any loans saleable in the secondary market as evidenced by commitments to buy by a buyer in the secondary market.~~

~~(3) Any line of credit loans.~~

~~(4) Any loans which contain provisions to adjust the amount of each payment, the number of monthly payments, or both, as is necessary because of changes in the interest rate charged and which are secured by a mortgage or deed of trust on real property which has or will have not more than four residential units.~~

~~(5) Any loans containing options or series of options to call the loans as described in Subdivision (b)(3)(C) of this Section.~~

~~(d) Notwithstanding any provision of this section, a credit union shall not make a "shared appreciation loan for seniors" as that term is defined in subdivision (i) of Section 1917.320 of the Civil Code.~~

~~Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14204, 14950, 14953, 14955, 14956, 14957 and 14959, Financial Code; and Sections 1917.320 and 2924i, Civil Code.~~

#### **48. Section 30.802 is added, to read:**

##### **§30.802. Obligations Secured by Real Property.**

(a) An obligation secured by real property shall comply with all the following:

(1) The obligation shall be secured by either:

(A) A first lien on a parcel of unimproved real property, provided the principal balance of the obligation is not more than 60 percent of the appraised value of the parcel and the term is not more than 30 years.

(B) A first or junior lien on a piece of improved real property, including the land and improvements thereon, provided the total amount of obligations secured by liens on the real property at the time the lien is perfected is not more than 80 percent of the appraised value of the improved real property and the term is not more than 40 years in the case of a first lien, or 30 years in the case of a junior lien. In calculating the total amount of obligations secured by liens on the improved real property for the purposes of this Subparagraph, amounts in excess of 80 percent of the appraised value of the improved real property shall be excluded to the extent the excess is insured by an agency or instrumentality of the federal government or by a private mortgage insurance company admitted in California.

(2) In case the obligation is secured by a first lien, a title insurance policy shall be obtained which designates the credit union as the insured, warrants the priority and validity of the credit union's security interest, and does not contain any exception which would preclude the credit union from obtaining marketable title to the real property security in the event of default.

(3) In case the obligation is secured by one or more junior liens on a piece of real property and the aggregate of all junior liens held by the credit union on the piece of real property does not exceed \$100,000, an abbreviated loan guarantee or fidelity lenders abbreviated guarantee issued by a title insurance company shall be obtained, unless the credit union obtains a title insurance policy of the type described in (2) of this subparagraph. As used in the previous sentence, an abbreviated loan guarantee or a fidelity lenders abbreviated guarantee refers to a limited guarantee issued by a title insurance company with respect to the priority and validity of the credit union's security interest which includes, at a minimum, a title search for all record owners and lienholders and a liability amount at least equal to the principal balance of the obligation.

(4) In case the obligation is secured by one or more junior liens on a piece of real property and the aggregate of all junior liens held by the credit union on the piece of real property exceeds \$100,000, a title insurance policy of the type described in (2) of this subparagraph shall be obtained.

(5) Unless waived in writing by the credit committee or credit manager, adequate hazard insurance on the real property shall be maintained during the term of the obligation. The requirement for adequate hazard insurance may not be waived if the principal balance of the obligation exceeds the unsecured lending limits prescribed by the California Credit Union Law or the credit union's written lending policies.

(6) The promissory note and deed of trust shall include a due-on-sale clause.

(7) The board of directors of the credit union shall have established a limit on the amount of total obligations which may be secured by real property, and the obligation does not cause the credit union to exceed the limit.

(b) For the purpose of determining whether an obligation is secured by a first lien on real property as specified in Subdivision (a) of this Section, none of the following shall be deemed to be a prior encumbrance unless any installment or payment thereunder other than a rental or royalty under a lease, is due and delinquent:

(1) The lien of any tax, assessment, or bond levied or issued by any state or territory of the United States or by any district, political subdivision, or municipal corporation thereof, except the lien of an assessment levied against a particular parcel of real property and of any bond given or issued pursuant to law in lieu of the payment of such assessment.

(2) A lien created by a contract and given to secure the payment for water to be furnished under such contract for the irrigation of the real property or any part thereof.

(3) The lien of a bond given or issued pursuant to law in lieu of the payment of an assessment levied against a particular parcel of real property and the lien of any assessment levied to pay the bond, if the unpaid balance of the bond and the amount of the obligation combined do not exceed the percentage of the appraised value of the real property specified in the applicable provision of Paragraph (1) of Subdivision (a) of this Section.

(4) A lien given to secure the payment of any assessment or subscription to meet the requirements of any law of the United States in respect to any irrigation project of the United States in any state or territory of the United States which may be levied, made, or received by any corporation or association formed to carry out the provisions of any such law, if the unpaid balance of the assessment or subscription and the amount of the obligation combined do not exceed the percentage of the appraised value of the real property specified in the applicable provision of Paragraph (1) of Subdivision (a) of this Section.

(c) Unless a lesser percentage is ordered by the Commissioner, the total of loans and line of credit loan advances outstanding which are secured by liens on real property shall not exceed 40% of the total of all of the credit union's outstanding loans and advances. However, a credit union that has gross assets of \$20,000,000 or more, a written asset liability plan or policy in effect, and has made real property loans for more than four years, may exclude from this 40% limitation the following loans:

(1) Any loans meeting the standards of the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation.

(2) Any loans saleable in the secondary market as evidenced by commitments to buy by a buyer in the secondary market.

(3) Any line of credit loans.

(4) Any loans which contain provisions to adjust the amount of each payment, the number of monthly payments, or both, as is necessary because of changes in the interest rate charged and which are secured by a mortgage or deed of trust on real property which has or will have not more than four residential units.

(5) Any loans for which the promissory note contains an option or series of options by the credit union to call the loan during a sixty day period commencing not sooner than two years, nor later than seven years, from the date of each option period, there are no penalties for prepayment by the borrower, and the following written disclosure, or its substantial equivalent, is given to the borrower:

"Notice of Year \_\_\_\_\_ Call Option

"Your lender has the right to call this loan due on [the or each] \_\_\_\_\_ anniversary of the loan. The lender may exercise this right any time during the

thirty-day period immediately following [the or each] \_\_\_\_\_ anniversary date of the loan.

"If the lender exercises its right to call the loan, upon receipt of notice, YOU WILL BE REQUIRED TO PAY THE LOAN IN FULL (OR ARRANGE NEW FINANCING) WITHIN NINETY (90) DAYS. You should be aware that interest rates in effect at the time of the call may be substantially higher than the interest rate on the original loan.

"It cannot be predicted at this time whether or not the lender will exercise the option; however, it will generally be to the lender's advantage to exercise the option if an increase in interest rates has occurred or is anticipated, if the term of the loan extends significantly beyond the option date, or if other reasons exist making the call of the loan advantageous to the lender."

(d) Except for Paragraph (7) of Subdivision (a) and as otherwise provided in this Subdivision, Subdivision (a) of this Section does not apply to any of the following obligations secured by real property:

(1) An obligation with a principal balance of \$50,000 or less, provided, however, that all junior liens on a piece of real property will be counted for the purpose of applying the \$100,000 threshold described in Paragraphs (3) and (4) of Subdivision (a).

(2) An obligation which conforms to the eligibility requirements established by the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation for sale in the secondary mortgage market. The credit union shall maintain documents for each obligation made pursuant to this Paragraph which demonstrate that the obligation meets the eligibility requirements.

(3) An obligation which is an alternative mortgage transaction, as defined pursuant to Title VIII of the Garn-St. Germain Depository Institutions Act of 1982 (12 U.S.C. §3801, et seq.) and any applicable regulations, guidelines and policies adopted thereunder. The credit union shall maintain documents for each obligation made pursuant to this Paragraph which demonstrate that the obligation meets the applicable federal requirements relating to the alternative mortgage transaction.

(4) An obligation which is secured by real property and which is a member business loan, as defined in Part 723 of the regulations of the National Credit Union Administration (12 C.F.R. Part 723).

(e) Any obligation for which adequate documentation is not maintained pursuant to the requirements of Paragraphs (2) and (3) of Subdivision (d) of this Section shall be subject to the requirements of Subdivision (a) of this Section.

(f) This Section shall apply to any obligation secured by real property which is created, renewed, extended, renegotiated, or otherwise modified, on or after the effective date of this Section; provided, however, that this Section does not affect any authorization contained in a written variance or waiver of this Section which was issued by the Commissioner prior to the effective date of this Section and which is still in effect.  
Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14950, 14953, and 15100, Financial Code.

**49. Section 30.804 is repealed.**

**~~§30.804. Late Charge.~~**

~~Late charges permitted by Section 15001 of the Financial Code may be imposed and collected only in accordance with the following:~~

~~(a) One-half or more of the scheduled payment is more than ten days delinquent.~~

~~(b) When a partial payment is made and the scheduled payment is one-half or more unpaid, the late charge may be calculated on the full amount of the scheduled payment.~~

~~Note: Authority cited: Section 14201, Financial Code. Reference: Section 15001, Financial Code.~~

**50. Section 30.900 is repealed.**

**~~§30.900. Appraisal of Real Property.~~**

~~A credit union shall obtain an appraisal of real property offered as security for a loan in accordance with a written appraisal policy approved by the board of directors.~~

~~Note: Authority cited: Section 14201, Financial Code. Reference: Section 14953, Financial Code.~~

**51. Section 30.901 is amended to read:**

**§30.901. Valuation or Appraisal of Personal and Real Property Security.**

~~(a) A credit union shall itself value or obtain an appraisal ~~on an automobile or other of~~ personal property offered as security for ~~a loan an obligation~~ in accordance with a written appraisal policy approved by the board of directors.~~

~~(b) At a minimum, the written appraisal policy shall set forth the minimum amount of a loan to which it is applicable and require that an appraisal of the automobile or other personal property be made by a member of the credit union or any other competent person, but the appraiser must not be interested either directly or indirectly in any way as a recipient of the loan.~~

~~(c) The market value of an automobile or other personal property given as a security may be ascertained and established by reference to a standard publication in general use in the trade.~~

~~(d) A credit union shall obtain a valuation or an appraisal of real property offered as security for an obligation in accordance with Part 722 of the regulations of the National Credit Union Administration (12 C.F.R. Part 722).~~

~~Note: Authority cited: Section 14201, Financial Code. Reference: Section Sections 14950 and 14953, Financial Code; Part 722 (commencing with Section 722.1), Title 12 Code of Federal Regulations.~~

**52. Section 30.1000 is repealed.**

**~~§30.1000. Preparation of Independent Audit Report.~~**

~~At the request of the Commissioner, a credit union shall furnish an Independent Audit Report pursuant to the following instructions and form:~~

**STATE OF CALIFORNIA  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
INSTRUCTIONS FOR INDEPENDENT AUDIT PURSUANT  
TO THE CALIFORNIA CREDIT UNION LAW**

~~These instructions have been prepared as an aid to licensees and their independent accountants in the preparation of the audit report to be filed with the Department pursuant to Section 14252 of the California Credit Union Law Division 5 (commencing with Section 14000) of the Financial Code.~~

~~These instructions set forth requirements which must be included in the accountant's comments and certain auditing procedures to be performed in the conduct of the audit for the report to be acceptable to the Department, pursuant to Section 14252 of the California Credit Union Law.~~

~~These requirements are a part of and/or in addition to generally accepted accounting principles and auditing procedures applicable in the circumstances as they apply to credit unions.~~

~~These instructions set forth minimum audit procedures and are not in any manner intended to restrict the judgment of the independent accountant where in the accountant's opinion the circumstances warrant the employment of additional procedures.~~

~~The report should be filed with the office of the Department with which the credit union ordinarily transacts its business.~~

**Audit Report and Procedures**

~~The independent accountant shall in all respects comply with Rule 58.1 of the State Board of Accountancy. The Audit Report shall contain the following:~~

- ~~A. — Statement of Financial Condition (Balance Sheet), Statement of Income, and Statement of Changes in Financial Position.~~

~~These financial statements must in all cases be audited statements prepared on an accrual basis accompanied by a short or long form accountant's report, including an opinion meeting the standards of the California State Board of Accountancy. If the report contains a qualification that the Commissioner deems material, the Commissioner may require the credit union to take such action as the Commissioner deems appropriate to permit the independent accountants to remove such qualification from the report, certificate or opinion. Qualification of an opinion for any of the following will not be considered material:~~

~~(1) Loan losses less recoveries (bad debts) are charged to the regular reserve rather than current expenses.~~

~~(2) The interest earned and not received on loans to credit union members has not been accrued as an interest receivable nor has such interest earnings been shown as income to the credit union for the reporting period.~~

~~(3) For any year during which the independent accountant did not conduct an audit for the preceding accounting period, and the inability to obtain satisfaction as to (a) the opening balances insofar as they affect the financial statements, and (b) the consistency of the application of accounting principles in the reporting year as compared with the preceding year.~~

#### ~~B. Analysis of Regular Reserve~~

~~The analysis of the regular reserve shall show the balance at the beginning of the fiscal year for auditing purposes the additions to and the deductions from the account during the year and the balance as of the close of the year. Additions to the regular reserve shall be separately stated under the following classifications:~~

~~Distribution of gross earnings; Entrance fees; Recoveries; Adjustments of prior year's income and/or expenses; and, Other credits. Charges against the reserve shall be separately stated under the following classifications: Bad loans charged off; Adjustments for prior year's income and/or expenses; Net operating losses; and, All other charges.~~

#### ~~C. Analysis of Undivided Profits~~

~~The analysis of the Undivided Profits account shall show the balance at the beginning of the fiscal year for auditing purposes, the additions to and the deductions from the account during the year, and the balances as of the close of the year. Additions to the Undivided Profits account shall be stated separately under the following classifications: Distribution of net profits; Dividend adjustments; and, Adjustment of the prior year's income and/or expenses. Charges against the Undivided Profits account shall be separately stated under the following classifications: Dividends distributed; Dividend Adjustment; and, Adjustments for prior year's income and/or expenses.~~

#### ~~D. Analysis of Reserve Requirements~~

~~The independent accountant's report shall contain an analysis of reserve requirements in accordance with Rule 30.400 of Title 10, California Code of Regulations.~~

#### ~~E. Internal Control~~

~~A description of the system of internal control used by the credit union, material weaknesses in internal accounting control for which corrective action by management~~



~~may be practicable in the circumstances, recommendations for improvements, and comments concerning corrective action taken or in process.~~

#### ~~F. Public Records Availability~~

~~1. The independent accountant's opinion, the balance sheet and the income statement, including any footnotes that are an integral part of those statements, are public records unless, upon request, the Commissioner of Financial Institutions withholds them from public inspection in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250), Division 7, Title 1 of the Government Code) for such time as in the Commissioner's judgment is necessary, if in the opinion of the Commissioner the public inspect of such information is not necessary in the public interest or for the purposes of the law under which it is filed and the information is reasonably shown to meet any of the following requirements:~~

~~(a) Information which is of a proprietary business nature and is in fact confidential, including but not limited to, trade secrets.~~

~~(b) Information which is of a confidential business nature and which is in fact confidential, the release of which would be damaging or prejudicial to the business concerned.~~

~~(c) Any other information, upon a showing that a public interest is served in withholding such information.~~

~~2. Other information required in the independent audit report will be considered confidential information and should be submitted as a separate report or in such a manner as to be easily separated from the balance sheet and income statement.~~

~~3. A request for confidential treatment of the independent accountant's opinion, the balance sheet or the income statement, including any footnotes that are an integral part of those statements, should accompany the submission of independent audit report and the information to which the request relates must be submitted separated from the other parts of the filing and marked "Confidential Treatment Requested." Such request must be signed by the person submitting the independent audit report and contain the following:~~

~~(a) A statement identifying the information which is the subject of the request and the application or report relating thereto.~~

~~(b) A statement specifying the provisions of Paragraph 1 of this Section F pursuant to which the request is made.~~

~~(c) A statement of the grounds upon which the request is made, including (if applicable) a statement as to its confidentiality and the measures taken to protect its confidentiality, and a statement of the adverse consequences which are expected to result if the information is disclosed through the public records of the Department.~~

~~(d) A statement of the specific time for which confidential treatment of the information is necessary and the basis for such conclusion.~~

~~4. The request for confidential treatment should not contain information which itself confidential treatment is desired, as requests for confidentiality will be available for public inspection.~~

~~5. Material for which confidential treatment is requested shall not be deemed filed unless the request is granted, and may be withdrawn if the request is denied, unless (1) the Commissioner has already taken an official action in reliance on such information prior to receiving the request for confidential treatment or (2) the Commissioner determines that the withdrawal of such information is otherwise contrary to the public interest. If withdrawn, such information will not be considered by the Commissioner in connection with independent audit report.~~

If a request for confidential treatment is granted, the person making such request will be notified in writing, the information will be marked "confidential" and kept separate from the public file, and the independent audit report will be noted with the following legend: "Additional portions of this filing have been granted confidential treatment and are contained in a separate confidential file."

Note: Authority cited: Sections 14201 and 14252, Financial Code. Reference: Section 14252, Financial Code.

**53. Section 30.1000 is added, to read:**

**§30.1000. Audit Reports.**

(a) For the purposes of Section 14252 of the Financial Code, a credit union shall submit an audit report for a fiscal or calendar year by filing with the Commissioner within 105 days after the end of the fiscal or calendar year an audit report that complies with all of the following:

(1) The audit report shall contain the following audited financial statements of the credit union for or as of the end of the year prepared in accordance with generally accepted accounting principles:

(A) Statement of financial condition.

(B) Statement of income.

(C) Statement of retained earnings.

(D) Statement of cash flows.

(E) Any other financial statement required by the Commissioner.

(2) The audited financial statements of a credit union contained in the audit report called for in Paragraph (1) of this Subdivision shall, if permissible under generally accepted accounting principles, be prepared on a consolidated basis.

(3) The audit report shall be based upon an audit of the credit union conducted in accordance with generally accepted auditing standards and any other requirements that the Commissioner may prescribe.

(4) The audit report shall be prepared by an independent certified public accountant or independent public accountant who is not unsatisfactory to the Commissioner.

(5) The audit report shall include an opinion of an independent certified public accountant or independent public accountant on the credit union's financial statements which is satisfactory in form and scope to the Commissioner.

(6) The audit report shall include a management letter of the independent certified public accountant or independent public accountant that is satisfactory in form and scope to the Commissioner. If the management letter is not satisfactory to the Commissioner, the Commissioner may order the credit union to take any action the Commissioner finds is necessary or advisable.

(b) The credit union may request confidential treatment of all or part of the independent accountant's opinion or the financial statements by filing a written request for confidential treatment at the same time that the audit report is filed. The information to which the request relates shall be submitted separated from the other parts of the filing and marked "Confidential Treatment Requested." The written request shall state the basis for any claim of confidentiality and describe the adverse consequences which are expected to result if the information is disclosed.

Note: Authority cited: Section 14201, Financial Code. Reference: Section 14252, Financial Code; Chapter 3.5 (commencing with Section 6250), Division 7, Title 1, Government Code.

**54. Section 30.1001 is amended to read:**

**§30.1001. Independent Accountant.**

For purposes of Section 30.1000, An no accountant will not shall be considered independent if he performs bookkeeping services for the credit union on a full or part-time basis, has a direct or indirect financial interest in the credit union or is a shareholder or member of said credit union or is an employee or agent of any organization which was formed for the mutual benefit and protection of credit unions or is an employee of any organization whose income is derived principally from levies upon credit unions or associations of credit unions unless the accountant complies with Rule 101 of the Rules of Professional Conduct of the American Institute of Certified Public Accountants, including the interpretations issued thereunder, as of November 30, 2002, which is incorporated herein by reference.

Note: Authority cited: Sections Section 14201 and 14252, Financial Code. Reference: Section 14252, Financial Code.